

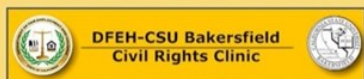


NEW FAIRTIMES

California Department of Fair Employment & Housing

YEAR END ROUNDUP

2013



DFEH WINS STATE BAR EDUCATION PIPELINE AWARD



The State Bar of California conferred its 2013 Education Pipeline Award on the Department of Fair Employment and Housing (DFEH) Educational Partnerships, which train a new generation of civil rights attorneys and investigators at California educational institutions.

The award was presented at the State Bar's 12th Anniversary Diversity Awards Reception in San Jose on October 12th. DFEH Director Phyllis Cheng and representatives from the partnering educational institutions were on hand to receive the Award.

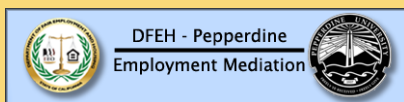
The partnerships with DFEH offer clinics and internship programs that provide supervised lawyering, mediation and investigative experience to a diverse group of students interested in or preparing to enter the legal field. The educational partners include: UC Irvine School of Law; UC Davis School of Law; California State University Bakersfield School of Business and Public Administration; College of the Canyons; and Rio Hondo College.

The DFEH also produced a series of civil rights videos, organized a speakers' bureau with the California Employment Lawyers Association, created educational programs on social media, and DVDs, lesson plans and other educational material to every California public high school. In addition to working on actual cases, the programs create a pipeline to State jobs.

Since the award, Pepperdine University School of Law | Straus Institute for Dispute Resolution and UC San Diego Extension have also joined the DFEH Educational Partnerships.

The Education Pipeline Award was established in 2008 by the State Bar of California Board of Governors to recognize outstanding efforts of law-related educational programs that train and support students to become interested in the judicial system and pursue careers in law.

FAIR EMPLOYMENT AND HOUSING COUNCIL SB 1038 IMPLEMENTATION



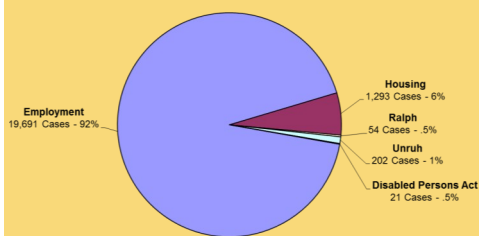
On May 6, 2013, the Governor appointed five members to the Fair Employment and Housing Council: Chair Chaya Mandelbaum, Councilmembers Dale Brodsky, Chaneé Franklin Minor, Patricia Perez and Andrew Schneiderman. DFEH Director Phyllis Cheng is an ex officio member of the Council. The Council's first meeting was held on June 18, 2013 in Sacramento, which included a ceremonial swearing-in of the Councilmembers and remarks by Business, Consumer Services and Housing Secretary Anna Caballero. The Council subsequently met on September 16 in Los Angeles and on December 10 in Sacramento, where the Council awarded Governor Edmund G. Brown, Jr., the Civil Rights Leadership Award. Secretary Caballero accepted the award on behalf of the Governor.

In its first six months, the Council has already achieved its first regulatory project of the repeal and republication of former Commission regulations with non-substantive changes under California Code of Regulations, title 2, section 11000 et seq.

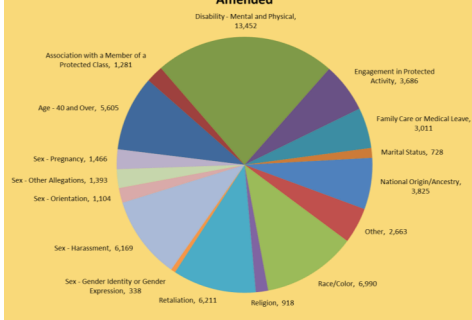




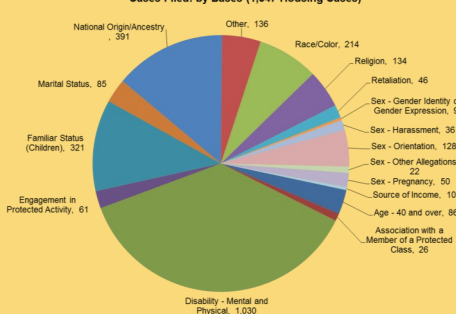
California Department of Fair Employment and Housing
Calendar Year: 2012
Cases Filed: by Law (21,261 Cases)



California Department of Fair Employment and Housing
Calendar Year: 2012
Cases Filed: by Bases (19,839 Employment Cases)
Amended



California Department of Fair Employment and Housing
Calendar Year: 2012
Cases Filed: by Bases (1,347 Housing Cases)



The Council also has adopted draft amendments to the California Family Rights Act (CFRA), and is in the process of developing a rulemaking package for filing with the Office of Administrative Law for notice and hearing in 2014. Tentative CFRA regulatory hearing dates include April 7, 2014 at UC Irvine School of Law, and June 2, 2014 at a still-to-be-determined location in the Bay Area.

In addition, plans to amend selected employment provisions of the Fair Employment and Housing Act (FEHA) regulations, to promulgate new FEHA housing regulations as well as Unruh Civil Rights Act, Ralph Civil Rights Act, and Government Code sections 11135-11139.5 regulations are in the works. All Council meetings are webcast live on the DFEH Web site and available on the DFEH YouTube Channel.

DFEH REACHES AGREEMENT WITH CITY OF SAN DIEGO FOR ALLEGED SEXUAL HARASSMENT TRAINING VIOLATIONS

On December 17, 2013, the Department of Fair Employment and Housing, California's civil rights agency, reached a settlement with the City of San Diego after the City allegedly failed to provide sexual harassment training seminars to supervisors.

"It's imperative that employees all be treated fairly and feel safe coming to work," said Business, Consumer Services and Housing Secretary Anna Caballero. "I commend the Department of Fair Employment and Housing for continuing to fight for fairness and equality for all Californians."

The Department filed the complaint in August against the City, after then Mayor Bob Filner, who was facing multiple allegations of sexual harassment, tried to defend his behavior by claiming that the City had never given him sexual harassment training. Filner, who has since resigned, pleaded guilty to three criminal charges and was recently sentenced.

The complaint alleged that San Diego was in violation of California's Fair Employment and Housing Act by failing to provide sexual harassment prevention training to its supervisory employees, including elected and appointed officials and, may have failed to prevent discrimination from occurring.

Upon completing its investigation, the Department discussed its findings with San Diego and entered in a settlement agreement that was approved by the City Council on Tuesday.

"This agreement serves as a model for other local government agencies to fully comply with the sexual harassment training required of all supervisors, including elected and appointed officials under the Fair Employment and Housing Act," said Department Director Phyllis Cheng.

As part of the agreement, San Diego, without admitting liability, will comply with the Fair Employment and Housing Act, providing at least two hours of online sexual harassment prevention training to all supervisory employees, including all elected and appointed officials, within six months of their hire, election or appointment date, and every two years thereafter. For the next five years, San Diego will report to the Department every six months regarding the City's compliance with the requirement to provide sexual harassment prevention training programs.

"We are pleased to have negotiated this agreement with the Department of Fair Employment and Housing to ensure compliance with state law," said San Diego City Attorney Jan Goldsmith. "The City's mayor is responsible for compliance, but what happens when the City's mayor does not comply? In this case, he is no longer in office, having resigned. I thank the Department for being firm but reasonable. Our interim mayor has directed that the City's Human Resources Department diligently comply with the settlement agreement and state law."



NOTABLE DFEH PROSECUTIONS AND SETTLEMENTS

Class Action: DFEH Need Not Satisfy Class Action Elements

Dept. of Fair Empl. & Hous. v. Law School Admission Council, Inc., U.S. District Court, Northern District of CA No. C-12-01830 EMC, Unruh Civil Rights Act-disability discrimination.

Summary: On April 22, 2013, Judge Edward M. Chen of the U.S. District Court for the Northern District of California determined that the DFEH is not required meet the requirements of Rule 23; instead, because it is pursuing a government enforcement action, the agency is exempt from the requirements of Rule 23 when pursuing a case on behalf of a group of employees. Tentative settlement to include elimination of flagging of test scores for disabled test takers nationwide, \$8 million in damages to victims, attorneys' fees and costs to be determined.

Civil Court Judgment

Dept. of Fair Empl. & Hous. v. FloraTech Landscape Management, Inc. (Rico), Alameda Superior Court Case No. RG11568338, employment-disability discrimination, failure to reasonably accommodate, \$112,400 compensatory damages and affirmative relief.

Summary: Mr. Placido Rico worked for FloraTech for 4.5 years with good progress evaluations. His doctor's office sent a fax to FloraTech informing Mr. Rico that his checkup was fine and that his lower back vertebrae were stable. FloraTech asked Mr. Rico to come into the office to discuss this fax. At this meeting, Mr. Rico's supervisors and the CFO of the company, Ms. Brenda Condon, asked him if he had prior back surgery. He answered yes. FloraTech terminated his employment on the spot. They never engaged in the interactive process as soon as they found out he might have a disability; they never asked his doctor if Mr. Rico was disabled; they never sent him to get a fitness for duty examination. FloraTech is alleging that Mr. Rico lied on his employment application when he answered "no" to the question: Do you have any physical limitations that will prevent you from doing the work you are applying for? Mr. Rico worked for FloraTech for 4.5 years. He continued to get raises, he continued to get promotions. He never complained about pain, he never complained that he could not do his job. FloraTech simply fired him when they found out he had prior back surgery.

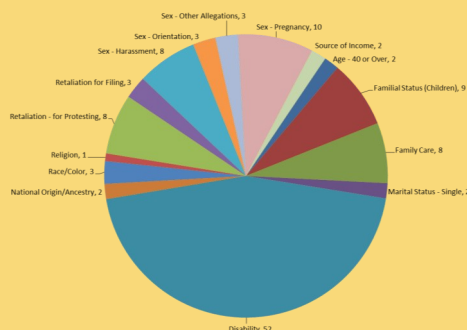
Judgment: Defendant Flora Tech to paid Mr. Rico back-pay in the amount of \$62,400.00, with prejudgment interest at the rate of 10 percent, accruing from the effective date of this decision to the date of payment. In addition, Flora Tech shall pay damages Mr. Rico \$50,000 for emotional distress he has suffered.

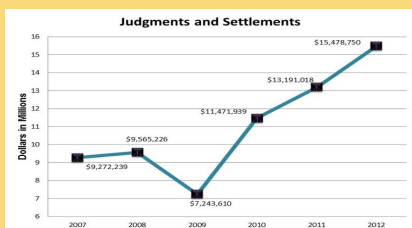
Employment Settlements

Dept. of Fair Empl. & Hous. v. Wal-Mart Stores, Inc. (Kelley), San Bernardino County Superior Court Case No. CIVVS1202790, employment-CFRA bonding leave and pregnancy accommodation, \$117,500 emotional distress damages and affirmative relief.

Dept. of Fair Empl. & Hous. v. AT&T Mobility Services, LLC. (Quintana-Castillo), Santa Barbara County Superior Court Case #1415034, employment-sexual orientation discrimination and harassment, \$83,000 lost wages, attorneys' fees, and affirmative relief.

California Department of Fair Employment and Housing
Calendar Year: 2012
Accusations Issued by Legal: Count of Bases (83 Accusations Issued)





Dept. of Fair Empl. & Hous. v. City of Long Beach, Harbor Department, DFEH Case No. E201112R0324, employment-sexual harassment, 51,351 compensatory damages and affirmative relief.

Dept. of Fair Empl. & Hous. v. AT&T Mobility Services, LLC (Goodrich), U.S. District Court, Eastern District of CA No. 1:11-cv-02114-AWI-SKO, employment-disability discrimination and CFRA leave, \$50,000 lost wages, emotional distress, and affirmative relief.

Dept. of Fair Empl. & Hous. v. EcoloBlue, Inc. (Haydon), DFEH Case No. 28408-14231; Contra Costa Superior Court No. MSC13-01792, employment-pregnancy discrimination, \$37,000 compensatory damages, attorneys' fees and affirmative relief.

Dept. of Fair Empl. & Hous. v. Convergent Revenue Cycle Management Inc. (Beach), Fresno County Superior Court Case No. 12 CECG 00142, employment-disability discrimination, \$30,000 compensatory damages and affirmative relief.

Dept. of Fair Empl. & Hous. v. Real Time Staffing Services, Inc. (Roma), Orange County Superior Court Case No. 37-2012-00104063-CU-CR-CTL, employment-pregnancy and perceived disability discrimination, \$22,500 and affirmative relief.

Dept. of Fair Empl. & Hous. v. John Muir Health (Lombardi), Contra Costa Superior Court, Case No. C12-01651, employment-sex discrimination, \$19,000 compensatory damages and affirmative relief.

Dept. of Fair Empl. & Hous. v. Crown Building Maintenance, Co. dba Able Building Maintenance (Arevalo), Los Angeles County Superior Court Case No. BC 493681, employment-pregnancy discrimination, \$19,000 lost wages, attorneys' fees and affirmative relief.

Dept. of Fair Empl. & Hous. v. Suba Technology (Arquiza), DFEH Case No. E-201011-G-0734, employment-sexual harassment, \$9,500 back pay and attorneys' fees, and affirmative relief.

Dept. of Fair Empl. & Hous. v. DBK Ventures Inc. dba Briskets Restaurant (Vice), San Bernardino County Superior Court, Case number CIVDS1301432, employment-pregnancy discrimination, \$7,500 in compensatory damages and affirmative relief.

Dept. of Fair Empl. & Hous. v. Integrated Protection, Inc. (Christian), Alameda County Superior Court Case No. RG 12655430, employment-mental disability discrimination, \$6,000 compensatory damages and affirmative relief.

Dept. of Fair Empl. & Hous. v. Concorde Communications, Inc. (Hall), DFEH No. E201112-S-0372; OAH No. 2013020466, employment-retaliation, \$4,500 compensatory damages and affirmative relief.

Housing Settlements

Dept. of Fair Empl. & Hous. v. The Terraces at Corona del Mar Community Association and Keystone Pacific Property Management, Inc. (Schwartz), Orange County Superior Court Case No. 30-2012-00606828-CU-CR-CJC, housing-disability, \$35,000 compensatory damages, attorneys' fees, and affirmative relief.

Dept. of Fair Empl. & Hous. v. Hooks, et al. (Richards-Scott), Alameda County Superior Court, Case No. RG13662944, housing-disability, \$22,500 in damages and attorneys' fees, and affirmative relief.



The DFEH-College of the Canyons
Civil Rights Clinic 2013.





DFEH Director Phyllis Cheng, California Employment Lawyers Assoc. Chair Tony Jaramilla, Chief Justice Tani Cantil-Sakauye, UC Davis School of Law Associate Dean Kirsten Hill with DFE H adjunct faculty and Civil Rights Fellows.



The Chief Justice with DFEH staff, UCI School of Law adjunct faculty and Civil Rights Fellows.



Dept. of Fair Empl. & Hous. v. Pelayo (Gaerlan), San Mateo Superior Court, Case No. CIV 519175, housing-disability discrimination, \$21,000 and affirmative relief.

Dept. of Fair Empl. & Hous. v. Arviv, et al (Maureen & Roy Hurson-Hughes), San Diego County Superior Court Case No. 37201200052255-CU-CR-NC, housing-national origin/ancestry discrimination, \$5,000 compensatory damages and affirmative relief.

Dept. of Fair Empl. & Hous. v. Patrick and Shirley Marty as Trustees of the Patrick and Shirley Marty Trust (Britton), Los Angeles County Superior Court Case No. 13K04096, housing-familial status discrimination, \$4,000 emotional distress and affirmative relief.

Dept. of Fair Empl. & Hous. v. Lecour & Pickett (Fair Housing Foundation), DFEH Case No. H-201112-P-0168-00-ph, Los Angeles superior Court # BC 497735, housing-disability, \$3,000 compensatory damages and affirmative relief.

Dept. of Fair Empl. & Hous. v. Victoria Gardens Investors, et al. (Erickson), Alameda County Superior Court Case No. HC12648532, housing-disability discrimination under the FEHA and Unruh Acts, \$2,000 and affirmative relief.

Public Accommodations Settlements

Dept. of Fair Empl. & Hous. v. Western Athletic Clubs LLC et al. (White), San Francisco County Superior Court Case No., CGC-12-521612, public accommodations-race, \$151,990 compensatory damages, attorneys' fees, and affirmative relief.

DFEH IN THE COMMUNITY

In 2013, as an MCLE and HRCI provider, the Department sponsored and presented 21 webinars to 6,939 participants, free to all government employees, on the following topics: leaves of absence, reasonable accommodation for disabilities in employment, DFEH administrative process, sexual harassment, Unruh Civil Rights Act, race and national origin discrimination, religious discrimination and accommodation, pregnancy and reasonable accommodation, workplace retaliation, harassment and free speech, mediation, self-help, DFEH procedural regulations, and rights of parents in the workplace. To date, the DFEH has saved the State of California over \$600,000 in training costs and a comparable amount for local and other branches of government.

In addition, Director Phyllis Cheng, the Executive Team, and other DFEH staff provided training or made presentations to numerous organizations, including: State and local Bar Associations, Southern California Mediation Association, Pepperdine University School of Law, UC Irvine School of Law, UC Davis School of Law, College of the Canyons, SCU Bakersfield UC San Diego Extension, USC Marshall School of Business, California State Universities, California Residential Association, County of Alameda Disability Conference, Disability Rights Summit, Disability Rights Forum, SEIU, CalHR, California Unemployment Insurance Council, Employment Round Table of Southern California, Northern California Employment Round Table, Society of Human Resources Management, various law firms, Disability Management Association, Stafford Webinars, Practicing Law Institute, Association of Defense Counsels and EEO Officers of Greater Bay Area. The



Employment Round Table of So, California and LA Councilmember Tom La Bonge honor labor leader Dolores Huerta.



Contact

Department of Fair Employment & Housing
State of California
State and Consumer Services Agency
2218 Kausen Drive | Suite 100
Elk Grove | California | 95758
Telephone: 916.478.7251
Fax: 916.478.7329
Web Site | Facebook | YouTube
Twitter | LinkedIn

Links

DFEH Web site:
www.dfeh.ca.gov
FEH Council Web site:
www.dfeh.ca.gov/fehcouncil.htm
BCSH Web site:
www.bcsb.ca.gov

SUBSCRIBE OR UNSUBSCRIBE

NEW FAIRTIMES is a quarterly electronic newsletter of the DFEH. To change or remove your e-mail address from the NEW FAIRTIMES mailing list, or for more information, e-mail Fahizah.Alim@dfeh.ca.gov

Department was on the news in the Freedoms Ring Syndicated Radio, Fox Business News, the Daily Journal and others.

DFEH LOS ANGELES OFFICE MOVES TO SERRA BUILDING

Pursuant to supporting Governor's Executive Order B-17-12 and in operationalizing SB 1038, on June 24, 2013, the DFEH Los Angeles Regional Office moved into new offices at the Junipero Serra State Building, 320 West 4th St., 10th Floor, Los Angeles, CA 90013. The move's projected savings to the State should be \$11,000 per month. Since 2009, the DFEH's office consolidations and moves have meant \$616,027 in savings per year to the State. The Department is grateful to Secretary Caballero for her guidance and support.

REORGANIZED AGENCY, NEW MEMBERS OF THE TEAM

In July 2013, DFEH was placed under the Business Consumer Services and Housing Agency under the Governor's reorganization plan.

- Fahizah Alim was appointed by Governor Brown as DFEH's new Deputy Director of Communications.
- Jon Ichinaga is DFEH's new Chief Counsel.
- Mary Bonilla is DFEH's new Chief of Enforcement.
- Nelson Chan is DFEH Associate Counsel of Education Outreach and Civil Rights Officer.
- Civil rights class action attorney Mari Mayeda joined the DFEH Legal Division.
- Carlos Talamantes is the new DFEH Chief Information Officer.